IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

WP(C).No. 5543 of 2006(I)

AS.100/2003 OF ADDL.DIST COURTALAPPUZHA.

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PETITIONERS:

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1. CHANDRA PANICKER, S/O. GOVINDA PANICKER,
THEKKE MULLASSERY VEEDU, KARUMADI KIZHAKKE MURI,
KARUMADI VILLAGE.

2. GOPAKUMAR,
KRISHNAVILASAM, PADAHARAM MURI, KARUMADY VILLAGE.

BY ADV. SRI.S.SANAL KUMAR
SMT.BHAVANA VELAYUDHAN

RESPONDENTS:

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1. VIJAYA LAKSHMI AMMA,
JANAKI SADANAM, AMBALAPUZHA MURI, AMBALAPUZHA.

2. MAHESWARI AMMA,
JANAKI SADANAM, AMBALAPUZHA MURI, AMBALAPUZHA.

3. GOPALAN,
MUPATHIL CHIRAYIL VEEDU,KARUMADI KIZHAKKE MURI,
KARUMADI VILLAGE.

R3 BY ADV. SRI.S.SANTHOSH KUMAR
SRI.S.VINODKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 5543/2006 I

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE INTERLOCUTORY APPLICATION AS IA NO. 762/2003 IN AS NO.100/2003 ON THE FILE OF THE ADDL. DIST. COURT, ALAPPUZHA DT. 25/7/2003.

EXT.P2. COPY OF THE PETITION AS IA NO. 414/2004 IN AS NO. 100/03 BEFORE THE DIST. COURT, ALAPPUZHA DT. MACH, 2004.

EXT.P3. COPY OF THE ORDER DT. 5/12/2005 IN IA NO. 835/2005 IN AS NO. 100/2003 ON THE FILE OF THE ADDL. DIST. COURT, ALAPPUZHA.

RESPONDENT'S EXHIBITS NIL.

True copy

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M.N. KRISHNAN, J.

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W.P.C. NO. 5543 OF 2006

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Dated this the 17th day of October, 2007.

J U D G M E N T

This writ petition is filed to set aside Ext.P3 order passed by the Addl. District Judge, Alappuzha in I.A.835/05 in A.S.100/03. The appeal was dismissed for default. With a petition to condone the delay an application was filed for restoration of the appeal and they are numbered as I.A.414/04 and 415/04. Those petitions are also dismissed for default. In order to restore those applications the present I.A. 835/05 is filed. The ground alleged is that they were not aware of the defects and the Advocate omitted to inform them about the same. The Court below dismissed I.A.835/05 on the ground that no evidence was adduced. The Court should have approached the matter more liberally especially when there is not much of negligence or misconduct on the part of the party. Therefore in the

interest of justice, I allow the writ petition and direct the Court below to restore I.A.835/05 and dispose it of in accordance with law.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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